Criminal Revision no.46 of 2002

Vivek Juneja Son of late Sri Om Prakash Juneja, resident of 6 H, Model Town, Bareilly…….....Revisionists

Versus

1. State of Uttaranchal
2. A.R.T.O. (E), Pithoragarh…….Respondents

Hon'ble Irshad Hussain J.

Heard Sri S.K. Jaiswal, learned counsel for the revisionist and the learned A.G.A.

This is a revision u/s 397 Cr.P.C. against the impugned order dated 18.6.2002 passed by the Chief Judicial Magistrate, Pithoragarh whereby the application for the release of the truck no.H.R.37/6444, which has been seized by the Enforcement Officer (A.R.T.O.), was rejected.

The learned counsel for the revisionist submitted that despite the communication made to the Enforcement Officer the challan report was not filed before the learned Magistrate and therefore the learned Magistrate should have passed an order for release of the vehicle in favour of the registered owner. It is not in dispute that the action was taken by the Enforcement Officer under section 207 of the Motor Vehicles Act, 1988 whereby the Enforcement Officer has been given the power to seize the vehicle in case there is infringement of the provisions referred to above. It is also not in dispute that the Enforcement Officer has not filed any complaint or sent the challan to the Magistrate concerned for prosecution of the revisionist. Considering this, the learned C.J.M. was of the view that under the above provisions of the Motor Vehicles Act, 1988, he has no power for the release of the vehicle in favour of the registered owner or the applicant revisionist. The learned counsel for the revisionist placed reliance on a Divison Bench decision of Allahabad High Court in the matter of Civil Miscellaneous Writi Petition no.30122 of 1994,Jugal Kishore Vs. State of U.P. and another. Relying on the ratio of the decision the learned C.J.M. dismissed the application by observing that since the Enforcement Officer has yet to forward a complaint or a challan report he

has no jurisdiction un the matter. Having gone through the abovementioned decision I find no illegality in the order of the learned C.J.M. whereby the application for release of the vehicle has been rejected for want of jurisdiction. The order passed by the C.J.M. being just, proper and within jurisdiction, no inference under the revisional jurisdiction of this court is warranted. The revision has no force and is hereby dismissed.

(Irshad Hussain, J.)

18.07.2002

M.P.S.